

**AGREEMENT BETWEEN CITY OF MILPITAS AND
MILPITAS UNIFIED SCHOOL DISTRICT FOR
THE PROVISION OF TRANSPORTATION SERVICES
SUMMER 2003**

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This Agreement is made by and between the City of Milpitas, a Municipal corporation of the State of California (hereinafter referred to as "City") and the Milpitas Unified School District (hereinafter referred to as "District") at Milpitas, California.

RECITALS

- A. City requires certain transportation services for the busing of local children to sites within and without the City for various activities.
- B. District is qualified to provide these services and is willing to furnish them in accordance with the terms and conditions of this Agreement.

In consideration of the mutual covenants and conditions herein contained the parties agree as follows:

AGREEMENT

1. General - City engages District to perform transportation services pursuant to the covenants and conditions of this Agreement at their compensation herein stipulated and District accepts engagement upon these terms.
2. Term - This Agreement shall become effective **June 25, 2003**, and shall terminate on **August 15, 2003**, unless otherwise terminated or extended pursuant to this Agreement.
3. Scope of District's Duties and Services - The scope of District's duties and services is set out in Exhibit "A", which is attached hereto and incorporated by reference herein.
4. Payment by City: Time and Manner of Payment - City shall pay District for all services to be rendered by it under this Agreement the amount specifically set forth and in the manner specifically set forth on Exhibit "B", which is attached hereto and incorporated by reference herein. District agrees to accept this sum as full compensation for all services due under this Agreement. City's representative shall be responsible for obtaining a purchase order from City's Finance Department to encumber the funds for Agreement.
5. Equal Employment Opportunity - District shall not discriminate against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation age, physical or mental disability, medical condition, marital status or by a legal denial of family care leave.
6. Compliance With Laws - District shall comply with all current federal, state, local laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative body or tribunal in any manner affecting the performance of this Agreement.
7. Independent Contractor - District is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement is not an agent, servant or employee of City.
8. Indemnification to the Fullest Extent Permitted by Law - District agrees to indemnify, defend with counsel reasonably acceptable to City and hold harmless City, its officers and employees from all cost, expenses, claims, suits, judgments, demands, causes of action, losses, liabilities or damages arising out of or in any way connected with the intentional or negligent act or omission of the District, District's officers, employees, agents, contractors, subcontractors or any officer, agent or employee thereof including without limitation those relating to injury or death of any person or damage to any property.

To the fullest extent permitted by law City agrees to indemnify, defend with counsel reasonably acceptable to District and hold harmless, District, its officers and employees from all costs, expenses, claims, suits, judgments, demands, causes of action, losses, liabilities or damages arising out of or in any way connected with the intentional

or negligent act or omission of the City, City's officers, employees, agents, contractors, subcontractors or any officer, agent, or employee thereof including without limitation those relating to injury or death of any person or damage to any property.

9. Insurance

a. General Liability - District agrees to maintain and pay for a general liability policy naming City, its officers and employees as additional insureds and insuring them against liability or financial loss resulting from injuries occurring to persons or property, in or about or in connection with the work to be performed under this Agreement. Each policy of insurance shall provide primary coverage on an occurrence basis in a company satisfactory to City in the following minimal amounts: personal injury - \$1,000,000 for each person and \$1,000,000 per occurrence; property damage - \$1,000,000 per occurrence. Each policy shall provide that it shall not be canceled without 30 day's prior written notice to City. The general liability policy shall provide (a) if City, its officers or employees have other insurance against the loss covered by said policy said other insurance shall be excess insurance only, and (b) that City, its officers and employees are not precluded from claim under said policy against other insured parties.

b. Workers Compensation - District agrees to comply with all State requirements relating to workers compensation insurance and to provide the same for its employees.

c. District shall file certificates and endorsements of insurance with City in a form satisfactory to City attorney upon execution of this Agreement evidencing said coverage and the requirements of this paragraph. The certificates and endorsement shall contain a reference to the date and title of this Agreement. All of the insurance companies providing insurance for District shall have an A. M. Best & Company rating of "A 8" or above. The certificates and endorsements shall be mailed to:

City Clerk
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035.

10. City Representative - Dale Flunoy shall represent City in all matters pertaining to the services to be rendered under this Agreement; all requirements of City pertaining to the services to be rendered under this Agreement shall be coordinated through the City representative.

11. District Representative - Keith Walker, Director of Maintenance Operations and Transportation shall represent District in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of District pertaining to the services to be rendered under this Agreement shall be coordinated through the District representative.

12. Notices - Unless otherwise provided herein all notices required hereunder shall be given by United States registered or certified mail or other form of mail which offers proof of mailing postage prepaid and addressed to the party at the address below:

City: City Manager
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035

District: Milpitas Unified School District
Assistant Superintendent - Business Services
1331 E. Calaveras Blvd.
Milpitas, CA 95035

13. Assignment - Neither party shall assign nor sublet any portion of this Agreement without the consent of the other party.

14. Applicable Laws & Attorney Fees - This Agreement shall be interpreted and enforced pursuant to California law. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in Santa Clara County, California. Should any legal action be brought by a party for breach of this Agreement or to

enforce any provision of this Agreement the prevailing party shall be entitled to reasonable attorney's fees, court costs and such other costs as may be affixed by the court.

15. Termination - Without limitation to such rights or remedies as City shall otherwise have by law, City shall also have the right to terminate this Agreement for any reason upon written notice to District. In the event of such termination District shall be compensated in proportion to the percentage of services performed through the date of termination.

16. Entire Agreement; Amendment - This writing constitutes the entire Agreement between the parties. No modification shall be effective unless the modification is in writing and signed by all parties to this Agreement.

17. Miscellaneous - All covenants herein shall be conditions. Time shall be of the essence. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or other provision. The singular number shall include the plural and the masculine gender shall include the feminine gender and neutral gender whenever the context of this Agreement permits. This Agreement shall be deemed to have been drafted equally by both parties.

Date: _____

CITY OF MILPITAS

By: _____
Thomas Wilson, City Manager

Approved as to Form:

By: _____
Steven T. Mattas, City Attorney

Attest:

By: _____
Gail Blalock, City Clerk

MILPITAS UNIFIED SCHOOL DISTRICT

Date: June 10, 2003

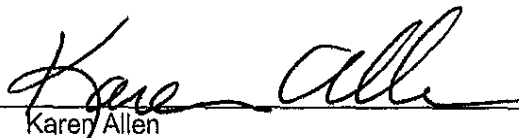
By: 
Karen Allen
Assistant Superintendent - Business Services

EXHIBIT A

The Milpitas Unified School District will provide transportation for the City of Milpitas Camp Stay & Play program **June 23 - August 15, 2003**. The City will be charged per bus **\$1.00 per mile plus \$55.00 per hour** in fifteen (15) minute increments. Time begins when the driver reports for duty and ends when the driver finishes at the bus yard. This includes sweeping the bus and paperwork. This time will be referred to as "yard to yard." All documentation of transportation schedules and records will be monitored by the Milpitas Unified School District. Services under the term of the agreement will not exceed **\$15,000**.

BUS SCHEDULE FOR MILPITAS RECREATION SERVICES CAMP STAY & PLAY PROGRAM

Program starts - June 23, 2003
Program runs until - August 15, 2003

Wednesdays - Two (2) buses for field trips listed below. All trip pick-ups begin at 8:30 a.m. and depart for destination by 8:45-9:00 a.m. Field trips are tentative and can change.

- **June 25** - Santa Cruz Beach Boardwalk
- **July 2** - Milpitas Cal Skate and Golfland in Milpitas
- **July 9** - California Academy of Science - Arrive at 10:00 am
- **July 16** - Monterey Bay Aquarium - Arrive by 10:30 am
- **July 23** - Milpitas Cal Skate and Golfland in Milpitas
- **July 30** - Tech Museum San Jose - Arrive at 10:00 am
- **August 6** - San Francisco Zoo

Trip Week - August 11-15

The week of **August 11 - 15** is designated as Trip Week. Camp Stay & Play goes on a different trip every day. The time of pick up is 8:15 a.m. and 8:30 a.m. and drop off is 6:00 p.m. Pick up and drop off will be at **Cardoza Park**. Two (2) buses are required. The trip schedule is as follows:

Monday	-	Santa Cruz Beach Boardwalk
Tuesday	-	Manteca Waterslides
Wednesday	-	Marine World
Thursday	-	Raging Waters
Friday	-	Paramount's Great America

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

POLICY CHANGES

Endorsement
Number

POLICY NUMBER YXN300868A	ENDORSEMENT EFFECTIVE APRIL 1, 2003	COMPANY Genesis Insurance Company
NAMED INSURED South Bay Area Schools Insurance Authority, ET AL		COVERAGE PARTS AFFECTED School Policy Retained Limit Form Coverage Parts A and B

CHANGES

BLANKET ADDITIONAL INSURED

SECTION II - WHO IS AN INSURED is amended to include any person or organization you are required by contract, that is an insured contract, to include as an Insured. Insurance shall be limited to the extent of coverage and Limits of Liability required by the contract. The contract must be effective and executed prior to a covered occurrence or wrongful act(s). The extent of coverage and the Limits of Liability of such contract shall not increase the limits stated in SECTION III - LIMIT(S) OF INSURANCE or extent of coverage stated in this policy. Any insurance maintained by the Additional Insured will not contribute by shares or limits with the limits provided by this policy but will be excess of this insurance.

Signed at Stamford, Connecticut on April 19, 2002

Ronald P. Amato
Authorized Representative

10-Jun-2003

ACORD CERTIFICATE OF LIABILITY INSURANCE**PRODUCER**

Driver Alliant Insurance Services
2933 Gold Pan Court
Suite E
Rancho Cordova, CA 95670

(916) 852-5959

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND
CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE
DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE
POLICIES BELOW.

INSURED

Milpitas Unified School District
1331 E. Calaveras Blvd.
Milpitas, CA 95035-5782

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INSURERS AFFORDING COVERAGE

Please refer to Coverages section below.

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY
PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.
AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CoverageType	Insurer	Policy	EffectiveDate	ExpirationDate	LimitType	Amount
General Liability (Coverage)	Genesis Indemnity	YX0300865A	01-Apr-2003	01-Jul-2004	S.L.R.	\$200,000
					BI & PD COMBINED OCC	\$800,000
					General Aggregate	\$2,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENTS/SPECIAL PROVISIONS

Certificate Holder is named as Additional Insured per form GIC999-3 as respects to Transportation Services Agreement - Summer 2003: from 6/25/2003 -
8/15/2003 for 100 people (2 buses).

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such
endorsement(s). If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not
confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance on this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it
affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

CERTIFICATE HOLDER

City of Milpitas
456 E. Calaveras Blvd.
Milpitas, CA 95035
Attn: City Clerk or Dale Flunoy

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CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE
EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS
WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO
DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY,
ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

